

REMARKS

Claims 1, 3-9, 12-17, 29, 34, 35, 37, 42, 44 and 54-57 are pending in the present application. Claims 44 and 54-56 have been withdrawn from consideration. Claims 1, 3-9, 12-17, 29, 34, 35, 37, 42 and 57 have been rejected.

In the instant amendment, Claims 18, 44 and 54-56 have been canceled, without prejudice as explained below. After entry of the instant amendment, Claims 1, 3-9, 12-17, 29, 34, 35, 37, 42 and 57 will be pending and under consideration.

As the Examiner noted in the present Office Action, the above listing of claims has been revised in accordance with the Applicants' inadvertent error, which the Examiner has corrected, i.e., Applicants' elected species below properly reads on claim 17 and NOT claim 18. Accordingly, the Examiner has revised the below rejections without prejudice to applicant.

Applicants appreciate the Examiner's correcting Applicants' inadvertent error, by re-entering Claim 17 for consideration and withdrawing Claim 18. In order to expedite prosecution of the present application, Applicants have canceled Claim 18, reserving the right to prosecute the nonelected subject matter in one or more other applications.

I. AMENDMENTS TO THE CLAIMS

Claims 18, 44 and 54-56 have been canceled as being drawn to nonelected subject matter. Applicants reserve the right to prosecute nonelected subject matter in one or more other applications.

No new matter has been introduced with the instant amendments to the claims. Entry of the amendments to the claims is respectfully requested.

II. RESTRICTION/ELECTION REQUIREMENT

In the present Office Action, the Examiner acknowledged Applicants' election of Group I and Applicants' further election of the species of SEQ ID 4. Because Applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the Examiner has treated the election as an election without traverse.

Applicants hereby withdraw the traverse and cancel the non-elected subject matter without prejudice to pursue this subject matter in one or more other applications.

III. WITHDRAWN OBJECTION(S) AND/OR REJECTION(S)**A. U.S. Patent No. 6,046,166 in view of Garber et al.**

The Examiner acknowledged that Applicants' submission of a terminal disclaimer has obviated the double patenting rejection of Claims 1, 3-6, 9, 12, 13, 16, 18 and 37 over Claims 1-49 of U.S. Patent No. 6,046,166 ("the '166 patent") in view of Garber *et al.* (1992) *Arteriosclerosis & Thrombosis* 12: 886-894.

B. U.S. Patent No. 6,329,341 in view of Garber *et al.*

The Examiner noted that Applicants' arguments regarding the restriction between the group I peptides and the group VII method of treating shock was persuasive. Accordingly, the Examiner has withdrawn the double patenting rejection of claims 1, 3-9, 12-16, 17 and 37 over claims 1-21 of U.S. Patent No. 6,329,341 ("the '341 patent") in view of Garber *et al.* (1992) *Arteriosclerosis & Thrombosis* 12: 886-894.

C. U.S. Patent No. 6,573,239 in view of Garber *et al.*

The Examiner noted that Applicants' arguments regarding the restriction between group I and group II (deletion analogs) was found persuasive. Accordingly, the Examiner has withdrawn the double patenting rejection of claims 1, 3-9, 12-16, 17, 29, 34, 35, 37 and 42 over Claims 1-34 of U.S. Patent No. 6,573,239 ("the '239 patent") in view of Garber *et al.* (1992) *Arteriosclerosis & Thrombosis* 12: 886-894.

D. U.S. Patent No. 6,630,450 in view of Garber *et al.*

The Examiner acknowledged that Applicants' arguments regarding the restriction between the group I peptides and the group VI method of treating dyslipidemia was persuasive. Accordingly, the Examiner has withdrawn the double patent rejection of Claims 1, 3-9, 12-16, 17, 29, 34, 35, 37 and 42 over Claims 1-36 of U.S. Patent No. 6,630,450 ("the '450 patent") in view of Garber *et al.* (1992) *Arteriosclerosis & Thrombosis* 12: 886-894.

E. U.S. Patent No. 6,844,327

The Examiner noted that the provisional double patenting rejection of the claims over the 10/283,599 patent application has been converted to a non-provisional double patenting rejection in view of the patenting of this application as U.S. Patent No. 6,844,327. This rejection is addressed below.

IV. OUTSTANDING OBJECTION(S) AND/OR REJECTION(S)

A. U.S. Patent No. 6,376,464 in view of Garber *et al.*

Claims 1, 3-9, 12-16, 17, 29, 34, 35, 37, 42 and 57 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-21 of U.S. Patent No. 6,376,464 ("the '464 patent") in view of Garber *et al.* (1992) *Arteriosclerosis & Thrombosis* 12: 886-894.

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

B. U.S. Patent No. 6,518,412 in view of Garber *et al.*

Claims 1, 3-9, 12-16, 17, 37 and 57 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-9 of U.S. Patent No. 6,518,412 ("the '412 patent") in view of Garber *et al.* (1992) *Arteriosclerosis & Thrombosis* 12: 886-894.

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

C. U.S. Pat. No. 6,844,327 in view of Garber *et al.*

Claims 1, 3-9, 12-16, 17, 29, 34, 35, 37, 42 and 57 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-23 (especially claims 1, 7-15 and 23) of U.S. Patent No. 6,844,327 ("the '327 patent") in view of Garber *et al.* (1992) *Arteriosclerosis & Thrombosis* 12: 886-894.

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

D. U.S. Application No. 10/802,080 in view of Garber *et al.*

Claims 1, 3-9, 12-16, 17, 29, 34, 35, 37, 42 and 57 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-36 (particularly claims 1-19 and 29-43) of co-pending application 10/802,080 in view of Garber *et al.* (1992) *Arteriosclerosis & Thrombosis* 12: 886-894. Pursuant to MPEP 804(I)(B), Applicants respectfully request that this rejection be withdrawn and the present application be permitted to issue as a patent, since the 10/802,080 application is still

pending and these provisional double patenting rejections (this one and the following one over the 10/099,574 application) are the only two rejections remaining in this application.

E. U.S. Application No. 10/099,574 in view of Garber *et al.*

Claims 1, 3-9, 12-16, 17, 29, 34, 35, 37 and 42 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-55 (particularly claims 1-18 and 28-42) of co-pending application 10/099,574 in view of Garber *et al.* (1992) *Arteriosclerosis & Thrombosis* 12: 886-894. Pursuant to MPEP 804(I)(B), Applicants respectfully request that this rejection be withdrawn and the present application be permitted to issue as a patent, since the 10/099,574 application is still pending and these provisional double patenting rejections are the only two rejections remaining in this application.


CONCLUSION

With the above amendments and remarks, Applicants believe that the present application is in condition for allowance. Applicants respectfully request reconsideration of this application, as amended, and its early allowance. Applicants would request that the Examiner contact Applicants' representative (phone number below), if the Examiner would like to discuss any of the above. We understand that Examiner Ponnaluri at phone number (571) 272-0809, now has responsibility for this case.

The Commissioner is hereby authorized to charge any required fee(s) to Deposit Account No. 23-0455 (referencing Attorney Docket No. 9196-022-999 (PC20700H)).

Respectfully submitted,

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